Court No. 2

In the High Court of Uttaranchal At Nainital

Appeal Against Order No. 217 of 2004.

(1)Smt. Sulekha W/o late Shailendra Kumar,
(2)Master Amar (Minor) S/o late Shailendra Kumar,
(3)Km.Shammi (Minor) D/o late Shailendra Kumar,
(4)Smt.Geeta Devi W/o Shri Bindeshwar Thakur,
All residents of Sanjay Nagar, Khera Colony,
Rudrapur, District-Udham Singh Nagar.

.....Claimant/Appellants.

Versus

(1)Motor Accident Claims Tribunal/
District Judge, Udham Singh Nagar,
(2)Ranjeet Singh S/o Shri Jagat Singh,
R/o Village- Bandia, Police Station Kichha,
District Udham Singh Nagar.
(3)The New India Insurance Company
through its Divisional Manager, Haldwani,
District-Nainital.

.....Defendant/Respondents.

Sri D.C.S. Rawat, learned counsel for the claimant/appellant.
Sri M.K.Goel, learned counsel for the respondent No.3.

Dated: 20th Aug., 2004.

Hon'ble P.C.Verma,J.
Hon'ble B.S.Verma,J.

This is an appeal against the judgment and award dated 02.06.2004 passed by the Motor Accident Claims Tribunal/District Judge, Udham Singh Nagar in Motor Accident Claim Case No.85 of 2003.

Brief facts giving rise to this appeal are that on 24.02.2003 at about 08.00 p.m. deceased Shailendra Kumar was going from Kheda Colony to Rudrapur by his

Motor cycle. At the same time Truck No. URL 8307, which was being driven rashly and negligently by its drive came and hit the Motor Cycle of the deceased, due to which he sustained grievous injuries. He got his medical treatment done at Moradabad and Rudrapur. The deceased died on 28.2.2003 due to the injuries received by him in the said accident. He was aged about 38 years and was employed as Salesman in S.R.Medical Store Rudra Bilas Sugar Mills, Bilaspur, District-Rampur and was getting Rs. 2700/- per month as salary. Claimant No.1 – the wife, claimant Nos. 2 & 3-son and daughter and claimant No. 4 –mother of the deceased have filed claim petition for compensation of Rs. 9,04,000/- due to the death of deceased Shailendra Kumar.

The case was contested by the opposite party Nos. 1 & 2 before the Motor Accident Claims Tribunal *(hereinafter referred to as the Tribunal).* The Tribunal after deciding the issues framed on the pleadings of the parties and after recording the evidence held that the claimants are entitled to get compensation worth Rs.3,91,858.75 alongwith interest at the rate of 9% per annum from the date of application till the date of payment from the New India Insurance Company.

The appeal has been preferred by the appellant only on the ground that though Smt.Sulekha and Smt.Geeta Devi, claimant-appellant Nos. 1 & 4 respectively are major but instead of releasing the amount in their favour, the Tribunal has directed that the share of the major claimants will be deposited in fixed deposit scheme while the fixed deposit ought to have been made only the share in award of the minors.

Learned counsel for the New India Insurance Company has no objection if the share in award of those

claimants who are major is released and the interest of minor claimants is protected by making fixed deposit of their share in the award.

Therefore, the appeal is allowed to this extent and order dated 02.6.2004 of the Tribunal is modified. The Tribunal concerned shall pass appropriate order releasing the share in the award of the major claimants in their favour and ensure the deposit of share of minor claimants in fixed deposit scheme.

The appeal is disposed of accordingly.

(B.S.Verma,J.) **(P.C.Verma,J.)**

P.Singh